IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :7162 of 1998

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Dated: 28th December 2007.

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Between:

Akella Satya Venkata Subba Rao, S/o Parvatheesam, Aged 44 years, Hindu, Ex-Casual Labour in APSEB, R/o D.No.65-3-3/A, Dwaraka Nagar, Kakinada, E.G. District – 533 023.

..... PETITIONER

AND

The Andhra Pradesh State Electricity Board, a statutory corporation being represented by its Chairman and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P.NO.7612 OF 1998

ORAL ORDER:

None appears for the petitioner though the matter has been adjourned even on the last occasion.

The writ petitioner, who appears to have worked as a Casual Labour with the former A.P.S.E.B. (henceforth referred to as 'the Board') in its Operation Division at Kakinada, for a total period of 170 days between 1st July 1980 to 24th May 1981, seeks a direction to the respondents to relax the upper age limit fixed for direct recruitment by 10 days.

The petitioner produced his Secondary School Certificate, wherein his date of birth has been noted as 12th June 1954. The Board had taken a decision to regularize the former casual labourers, who have worked for certain number of days in any of its establishments/offices. Since, the petitioner possesses the necessary educational qualifications and he has also put in the required number of man-days for getting appointed against the vacant posts in the regular establishment, pursuant to the one time decision and exercise carried out, the case of the petitioner has come up for consideration, but however, the respondents had pointed out that in terms of the recruitment Rules and in particular, Rule 5-A, wherein it has been mentioned that no person shall be eligible for appointment by direct

recruitment to any category if he has completed 25 years of age on the date of appointment, was coming in the way of regularizing the services of the petitioner. The Board's Regulations have also specifically pointed out that there shall be no relaxation of upper age limit granted, for the sake of direct recruitment.

When somewhat a similar question had fallen for consideration before the Supreme Court in Civil Appeal No.3215 of 2002, by its Judgment dated 18th April 2002, the Supreme Court resolved the same as under:

> " In our view, in the petitions before the High Court there was no question of considering public policy and the discussion on the law was totally besides the point involved in the matter. Limited issue was – whether before regularization of service of employees, the Board was bound to follow the eligibility conditions laid down in its proceedings dated 18.5.1997 and 31.12.1997. Benefit of regularization which was conferred on the employees solely depended upon eligibility of conditions including the age limit prescribed under the statutory regulations. The statutory regulations provide that there shall be no relaxation of age. In cases, where the Board has committed mistake in engaging under-age or over-age casual employees or has permitted the contractor to do so would not confer any right on such employees for being regularized on the basis of BPMS dated 18.5.1997."

In view of this judgment, the present writ petition is

liable to be dismissed.

The writ petition is accordingly dismissed, but however, in the circumstances, without costs.

Nooty Ramamohana Rao, J

28th December 2007
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